



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Dave Freudenthal, Governor

John Corra, Director

June 30, 2005

Montana Water Pollution Control Advisory Council
c/o Mr. Bob Bukantis
Montana DEQ
Water Quality Planning Bureau
P.O. Box 200901
Helena, MT 59620

RECEIVED

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**DEQ
Planning Division**

RE: Northern Plains Resource Council Petition

Dear Council:

My name is John Corra, and I am the Director of the Department of Environmental Quality for the State of Wyoming. References have been made in the petition to how we manage CBNG waters. I respectfully submit the following comments in order to provide you with some information about our program and to clarify a few points that have been brought by the NPRC in its petition submitted to the MBER on May 17, 2005.

Wyoming DEQ Response to Development

The Wyoming Pollutant Discharge Elimination System (WYPDES) program has issued 262 CBNG surface water discharge permits (2,205 outfalls) in the Powder River watershed, 85 (598 outfalls) in the Little Powder River watershed and 33 (332 outfalls) in the Tongue River Watershed.

Our permitting approach has been conservative to ensure that Wyoming and Montana agricultural activities are protected as are all other designated uses. Direct discharge of CBNG produced water into the mainstems has not been allowed except where the water is treated. For discharges that have shown the potential to impact the mainstream, either through direct discharge or conveyance from a tributary, our historic policy has been to require end of pipe limits that are designed to be protective of the most sensitive uses. This has included requirements to meet end-of-pipe limitations equivalent to the Montana numeric water quality standards for Ec and SAR.

As this CBNG development has progressed to the north and west, we have encountered a decline in the quality of the water being discharged. As such, we have encouraged treatment, zero discharge, and other water management options that further ensure developers do not harm existing uses of either state's waters. I anticipate that the trend toward treatment will increase. The careful management of discharge permits in Wyoming has been successful in protecting and maintaining the water quality standards of both states, including protection of designated uses.



Clarification of Re-Injection of CBNG Produced Water

Reference is made in the Northern Plains Resource Council petition to the prevalence of re-injecting water. We wish to clarify this activity by providing the correct statistics for this activity in Wyoming. A total of 308 CBNG Class V injection wells have been permitted in Wyoming to date. Of this total, 60 are active and injecting a combined 14,592,692 barrels/year (1.68 million gallons per day). This is approximately 3% of the total water produced.


Clarification on NPRC Supporting Documentation

I believe it is important that the Council clearly understand that the foundation for much of the NPRC petition is a February 2003 draft document prepared by the United States Environmental Protection Agency (EPA), which was under review by the Department of Energy. This draft document has not had the benefit of input based on full public review and comment. Furthermore, the draft document has been stamped "DO NOT CITE OR QUOTE" on every page. Therefore, reliance on this draft EPA document and other documents that rely on the information contained in the draft EPA document would not be appropriate or advisable.

Lastly, reference is made to my department's position that we intend to use up all assimilative capacity and simply meet the Montana standards at the border for the Tongue and Powder and Little Powder rivers. I can assure you that we have not reached any conclusions about this. The two-state agencies met in the Fall of 2004 and identified common interests and brain-stormed a list of 10 different options on how we can co-manage this development. We met again in May of this year and furthered our efforts, but neither state took a position. I present this only to assure you that Wyoming shares the common interest in protecting all existing designated uses and that we are committed to cooperating with Montana to the maximum extent possible, through continued dialogue, sharing of information and shared input on draft permits, both in Wyoming and Montana. I feel that we have made good progress, and look forward to completing the discussion this year. For reference, I have attached a letter from Governor Freudenthal to the MBER on this matter.

I would be happy to provide you with any further clarification regarding this matter. Please feel free to contact me at 307-777-7192 (jcorra@state.wy.us) or you may contact John Wagner, Water Quality Administrator 307-777-7072 (jwagne@state.wy.us) or Todd Parfitt, WYPDES Program Manager at 307-777-6709 (tparfi@state.wy.us).

Sincerely,



John V. Corra
Director

cc: John Wagner, WQD Administrator
Todd Parfitt, WYPDES Program Manager
Richard Opper, Director, Montana DEQ
Art Compton, Montana WQD
Mary Flanderka, Governor's Office
John Masterson, Governor's Office
Debbie Thomas, EPA Region 8

DAVE FREUDENTHAL
GOVERNOR



STATE CAPITOL
CHEYENNE, WY 82002

Office of the Governor

June 2, 2005

Mr. Joe Russell, Chairman
Montana Board of Environmental Review
1035 First Avenue West
Kalispell, MT 59901

Re: Petition for Rulemaking submitted by Northern Plains Resource
Council and Others, May 17, 2005

Dear Mr. Russell and Members of the Board:

Mr. John Corra, Director of the Wyoming Department of Environmental Quality, has brought this petition to my attention. The petition, submitted by the Northern Plains Resource Council and numerous ranching entities and individual ranchers, ostensibly addresses coalbed methane extraction in Montana, yet makes it explicitly clear several times that it is actually aimed at limiting production occurring in Wyoming.

The petition is inaccurate in several instances, especially in its statements of positions allegedly taken by the Wyoming Department of Environmental Quality in meetings with the Montana Department of Environmental Quality on coalbed methane production water quality issues. The State of Wyoming has consistently maintained at each of those meetings that it is working with the State of Montana on these issues. For example, the meeting notes referred to on page 65 of the petition actually list a wide range of options that the states would study. In fact, Wyoming made it very clear that we wished to avoid taking positions until both states had a chance to explore mutually acceptable options. Based on reasons like this, the petition is exceedingly premature. The meetings should continue, and any action on the petition should be deferred. I believe this would be a much better approach than having the Board of Environmental Review initiate rulemaking

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based on this petition, which is aimed at sidestepping the meetings between Montana and Wyoming concerning these same issues.

I appreciate your consideration in this matter, and refer you to Mr. Corra for any questions or comments.

Best regards,



Dave Freudenthal
Governor

DF:JC:pjb

cc: Honorable Brian Schweitzer, Governor of Montana
Mr. Eric Hayes
John Corra, Wyoming DEQ